

City of Sandy Springs Board of Ethics Meeting held April 8, 2009.

Call to Order

Chairman Moffett called the meeting to order at 9:00 a.m.

Roll call and establishment of quorum

Interim City Clerk Michael Casey called the roll.

Board Members Present: Glenn Moffett, Charles Maddrey, Andrew Heyward, Kirk Childs and Richard Isenberg. **Absent:** Alternate Kevin King

Staff and Representatives Present: Michael Casey and City Attorney Wendell Willard.

City Attorney Wendell Willard stated that Susan Langlais' position on the Board will need to be replaced because of her elevation to position of Assistant Solicitor. She is not able to serve both the Board and an appointed position of the City.

Chairman Moffett stated that there is a quorum for business to be transacted this morning. As it has been said, Susan Langlais will not be a member of the Board due to recent elevation to Assistant Solicitor for the City of Sandy Springs. She will be working out of Municipal Court. Chairman Moffett asked City Attorney Willard to inform City Council of this and that a replacement will be needed.

Approval of Meeting Agenda

Motion and Vote: Mr. Maddrey moved to approve the Agenda as submitted. Mr. Heyward seconded the motion. The motion carried unanimously.

Approval of board meeting minutes of October 8, 2008, and January 8, 2009

Motion and Vote: Mr. Maddrey moved to approve the meeting minutes of October 8, 2008 as presented. Mr. Isenberg seconded the motion. The motion carried unanimously.

Interim City Clerk Michael Casey stated that the January 8, 2009 minutes are still in the editing process. He proposed that after he finishes editing the minutes he will send them out to the Board, to review them and get any corrections or comments back to him. A clean set will be ready for approval and signing at the next meeting of the Board of Ethics.

Chairman Moffett stated that is very good and that is exactly what the Board will do.

City Attorney Wendell Willard asked Chairman Moffett if the Board ever received a letter prepared by Mr. Davidson regarding the actions of Mr. Wiley. There was to be an admonition letter prepared for Mr. Wiley from the Board of Ethics.

Chairman Moffett stated that he believes that Mr. Davidson did prepare it. Interim City Clerk Casey stated that he is not familiar with it. Chairman Moffett stated that he will follow up.

City Attorney Wendell Willard suggested that the letter be made a part of the minutes of one of the meetings.

A member of the Board questioned if there was any response from Mr. Wiley to that letter. Chairman Moffett stated that he has not seen any response, and this is something that can be taken up at the next meeting.

Committee Reports

Update on the revisions to the Ethics Ordinance and Bylaws - Wendell Willard, City Attorney

City Attorney Wendell Willard stated that the proposed amendments to the ordinance have been approved by City Council. The Bylaws and Procedures went before City Council at the Work Session last night. There were no questions by City Council and this should move forward to the next regular meeting for approval.

Chairman Moffett stated that this process has taken several months. I made an appearance before the Council when the Ethics Ordinance was being discussed and debated, and presented the position of the Ethics Board. It was pretty clear that the Council had a lot of questions about what to do about these various changes, and ultimately simply decided to go along with the City Manager's recommendation that City employees be excluded. There was a lot of discussion about that. I did not feel that every Councilmember was 100% on board with this way of handling the ethics situation, but there was a unanimous vote. As the Ethics Board got together and discussed each one of these items, we felt like everyone in Sandy Springs government should be under the ethics rules, thinking this would open everything up to scrutiny by anyone who had questions about City government or City employees. The Board felt it would also give protection to individual employees. If an employee has a complaint against their supervisor and their supervisor has someone above him that can do what they want to about that complaint, then it does not, in my view, give much protection to the employee. I think this will be revisited in the future. I do not think there is any question that somewhere down the line something is going to happen that will show the need for this protection for the employee. When it does occur, the Board will be back in business in terms of trying to rectify this missing gap.

Most of the large municipalities and counties of this nation cover employees. If you go on the internet, you see all the various cities that include that. At this point in time we do not have this coverage. The Board covers City Council, Boards and situations like the Wiley case, but as far as employees of the City, that's out. As far as the supervisor of employees, from the City Manager on down the Board would not have this control. The police and fire departments will have various rules and regulations and I am concerned that they will not be uniform. City Attorney Willard has told City Council that they need to be uniform and that we don't need to have one rule for the fire department and one rule for the police department. That is one reason why the ethics rules would have been the very best for everybody, but I am not sure this has been done. The City Attorney tried to bring it to the attention of Council and each department, so we will see how this works over a period of time.

Mr. Maddrey stated that the elected and appointed officials are covered by the newly revised Ethics Ordinance. Also included are the City Attorney, the City Clerk and anybody in the City Attorney's office and the City Clerk's office.

City Attorney Willard stated this applies to him and those that work under him including Cecil McLendon and Kathy Williams.

Chairman Moffett questioned who is covered in the Clerk's office.

City Attorney Willard stated that Mr. Casey is more of an employee of the City. He is an employee under the control of the City Manager. Mr. McDonough's thinking is that for anybody who is under his chain of command, he is going to have the say so about their ethics. If they don't do something right, he is the one who takes care of the discipline and he will be the one who answers to the Council. If Council feels he is not doing the proper job, then Council's position is to replace him. This is where we are with the division. He does not want to have the employees under what might be dual controls; dual being as to ethics what we set out as standards for everybody under Mr. Willard's direction and also another body setting a standard that may be confusing to him.

Chairman Moffett stated that the Ethics Boards position has been that if we had one applicable rule covering everyone, employee or non employee, then we would be providing the basis for equal rights and equal jurisdiction. The Board even agreed not to interfere with someone else's jurisdiction over an employee, so long as they were applying the same rules across the board. We even proposed this to the Council. I felt like a couple of members of Council liked that, but there were not enough votes to pull it through. We tried everything we could and it did not work.

Mr. Maddrey stated that one of the underlying reasons is that the Ethics Board, as it was constituted, does not operate in corporations nor does it operate in the military. This is not the way you operate. It does operate well in the City. I felt that with Council and the City Manager we were looking at it more from a corporate point of view of how it operates or even from a military point of view. In my opinion, everybody who is associated with the City is responsible to the citizens. The Ethics Board is responsible for looking after the citizen's rights. I do not think the Council looked at it that way. For this same reason, I was really disappointed in the action taken.

City Attorney Wendell Willard stated that approval of the Bylaws will be on the second business meeting of the month, April 21, 2009.

Education Subcommittee - Charles Maddrey, Chair

Chairman Moffett stated that he has appointed Charles Maddrey as Chair of the Education Committee. Mr. Maddrey has been the most involved in this over the course of time since the Board has discussed this issue. Mr. Maddrey has tried to get several meetings with various members of the City. Now, that we have this new change in the bylaws and the Ethics Ordinance, Charles, what is your take on what would be the responsibility of the Ethics Board based on what you know?

Mr. Maddrey asked to whom we should direct awareness of the Ethics Ordinance. That has been defined as elected/appointed officials; City Attorney and anyone working for the City Attorney, and I suspect it will end up being the City Manager as well. This is who the Board will use as their target to make aware of the ethics ordinance.

During the Wiley complaint it was very clear to me that Mr. Wiley, as a member of the Planning Commission, had not read the Ethics Ordinance. Mr. Wiley has been on the Planning Commission for two (2) years and was not aware of the Ordinance. It is incumbent upon us as a Board to make the

appointed members aware of the Ethics Ordinance. First of all, we need to upgrade the ordinance that is on the City's website. I would like to get an electronic copy of the latest approved ordinance. The ordinance on the website today is dated October 2006.

Secondly, members of the Board need the latest approved copy of the Ordinance and Bylaws to operate from.

I am going to redo the question and answer format that I did before, back in 2006 or 2007, and find a way to get this information to all appointed members either by mail or electronically, whichever is easier. The next step will be to set up a system to ensure that anyone who is appointed receives this information.

Chairman Moffett stated that he does not think that any member of the Ethics Board would be part of the training anyway. Any training would need to come from the City Attorney's office.

City Attorney Willard stated that the question and answer would be a good way of showing how this Ordinance may apply to appointed officials. All of the appointees run on a calendar year basis. I will verify this and find the dates. As people are appointed, we can have a packet with the Ordinance and the Question and Answer Guide to give them and encourage them to read this over, because it will apply to their positions with the City. Education wise, this is the best way to do it.

Mr. Maddrey stated that he will run the Question and Answer Guide through the City Attorney to make sure it is correct. The last question would be: Where would be the place to start? The Board needs to have a listing of all new appointees.

City Attorney Willard stated that the City Clerk's office will supply the names of appointed members to various boards and commissions. The Community Development Department has the Board of Appeals, Planning Commission and the Design Review Board. This is all the appointed bodies I can think of at the moment. We have the Solicitor and all the assistant solicitors. The judges are not under the Ethics Board. They are under different ethical requirements by the State.

Chairman Moffett asked if there was a motion to approve the report of Charles Maddrey, Chair of the Education Subcommittee.

Motion and Vote: Mr. Heyward moved to approve the Education Subcommittee Report. Mr. Isenberg seconded the motion. The motion carried unanimously.

Old Business

There was no old business.

New Business

There was no new business.

Adjournment

Motion and Vote: Mr. Isenberg moved to adjourn the meeting. Mr. Childs seconded the motion. The motion carried unanimously. The meeting adjourned at 9:31 a.m.


Glenn Moffett, Chairman


Michael Casey, City Clerk